

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

HUBERT W. DRAW, JR.,

Case No. 3:15-cv-00224-MMD-WGC

Petitioner,

ORDER

v.

ISIDRO BACA, *et al.*,

Respondents.

This case is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Hubert W. Draw, Jr., a Nevada prisoner. Draw has now paid the filing fee for this action. See Order entered May 15, 2015 (dkt. no. 3); Receipt for Payment of Filing Fee (dkt. no. 4).

The Court has reviewed Draw's habeas petition pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. The Court will direct the Clerk of the Court to serve the petition upon the respondents, and will require a response.

Draw filed, with his habeas petition, a motion for leave of court to file additional pages, requesting permission from the court to file his 56-page petition. Leave of court is not necessary. His motion will be denied as moot.

Draw also filed, with his petition, a motion for appointment of counsel. "Indigent state prisoners applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances of a particular case indicate that appointed counsel is

1 necessary to prevent due process violations.” *Chaney v. Lewis*, 801 F.2d 1191, 1196
2 (9th Cir.1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir.1970) (per curiam).
3 The court may, however, appoint counsel at any stage of the proceedings “if the
4 interests of justice so require.” See 18 U.S.C. § 3006A; see also, Rule 8(c), Rules
5 Governing § 2254 Cases; *Chaney*, 801 F.2d at 1196. Appointment of counsel is not
6 warranted in this case.

7 It is therefore ordered that the Clerk of the Court shall separately file the petition
8 for writ of habeas corpus, the motion for leave of court to file additional pages, and the
9 motion for appointment of counsel, each of which is currently attached to the *in forma*
10 *pauperis* application at dkt. no. 1.

11 It is further ordered that the Clerk of the Court shall add Adam Paul Laxalt,
12 Attorney General of the State of Nevada, as counsel for respondents.


13 It is further ordered that the Clerk of the Court shall electronically serve upon
14 respondents a copy of the petition for writ of habeas corpus and a copy of this order.

15 It is further ordered that respondents shall have sixty (60) days from the date on
16 which the petition is served upon them to appear in this action, and to answer or
17 otherwise respond to the petition. Respondents shall, in their initial responsive pleading,
18 whether it is a motion or an answer, raise all potential procedural defenses, including
19 lack of exhaustion and procedural default.

20 It is further ordered that petitioner’s motion for leave of court to file additional
21 pages is denied as moot. The habeas petition will be filed; leave of court is not
22 necessary.

23 It is further ordered that petitioner’s motion for appointment of counsel is denied.

24 DATED THIS 13th day of July 2015.

25
26 
27 MIRANDA M. DU
28 UNITED STATES DISTRICT JUDGE